

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

VICTOR M. PETERSON,

Petitioner,

v.

Civil No. 2:07-CV-15386

HONORABLE GERALD E. ROSEN

CHIEF UNITED STATES DISTRICT JUDGE

THOMAS BELL,

Respondent,

/

**OPINION AND ORDER DENYING THE MOTION
FOR RELIEF FROM JUDGMENT PURSUANT TO RULE 60(b)**

Victor M. Peterson, (“petitioner”), a state prisoner presently incarcerated at the Carson City Correctional Facility in Carson City, Michigan, filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, in which he challenged his convictions for first-degree murder, conspiracy to commit first-degree murder, and possession of a firearm in the commission of a felony. After determining that this was a successive challenge by petitioner to these convictions, the Court transferred the case to the United States Court of Appeals for the Sixth Circuit for petitioner to obtain authorization pursuant to 28 U.S.C. § 2244(b)(3)(A) to file a successive petition for writ of habeas corpus. The United States Court of Appeals for the Sixth Circuit subsequently denied petitioner permission to file a successive habeas petition. *In Re Peterson*, U.S.C.A. No. 08-1056 (6th Cir. July 29, 2008).

Petitioner has now filed a motion for relief from judgment, in which he apparently asks this Court to grant him habeas relief on the claims for which he was denied

authorization by the Sixth Circuit to file a successive habeas petition.

A district court lacks the authority to reinstate a habeas petitioner's second or successive petition for writ of habeas corpus after the Court of Appeals declines to grant petitioner leave to file such a petition. See *White v. Carter*, 27 Fed. Appx. 312, 313-14 (6th Cir. 2001). Therefore, this Court is without authority to grant petitioner relief pursuant to Fed.R.Civ.P. 60(b) from the Sixth Circuit's refusal to grant petitioner permission to file a successive habeas petition. See *Sullivan v. Sherry*, No. 2007 WL 2571966, * 1 (E.D.Mich. September 5, 2007). Moreover, contrary to petitioner's claim, the Sixth Circuit did not remand this matter back to this Court after denying petitioner permission to file a successive petition, therefore, this Court continues to lack jurisdiction over petitioner's case. See e.g. *Ceasar v. Warren*, No. 2008 WL 4104498 E.D. Mich. September 3, 2008). Simply put, it would be oxymoronic, as petitioner claims, for the Sixth Circuit to deny petitioner permission to file a successive habeas petition pursuant to 28 U.S.C. § 2244(b)(3)(A), and then remand the matter to this Court for further proceedings.

ORDER

IT IS ORDERED that the motion for relief from judgment [Dkt. # 6] is **DENIED**.

s/Gerald E. Rosen
Chief Judge, United States District Court

Dated: February 26, 2009

I hereby certify that a copy of the foregoing document was served upon counsel of record on February 26, 2009, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry

Case Manager